

**REQUEST FOR APPROVAL OF  
SOLE SOURCE PROCUREMENT**

**to provide leased space for**

**SAN MIGUEL COUNTY MAGISTRATE COURT  
IN LAS VEGAS, NEW MEXICO**



**STATE OF NEW MEXICO  
ADMINISTRATIVE OFFICE OF THE COURTS**

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**I. JUSTIFICATION FOR SOLE SOURCE PROCUREMENT**

On May 11, 1998 AOC, Lessee, and Don Elwell, Jr. and the Barbara A. Elwell Revocable Trust, Lessor, entered into a Lease Agreement for a Magistrate Court facility to be built at 1927 7<sup>th</sup> Street, Las Vegas, New Mexico. The Magistrate Court was built pursuant to specifications provided by AOC, and occupied December, 1998. From the date of occupancy the facility was well maintained in all respects by the landlord.

Pursuant to NMSA 35-1-28 the San Miguel County Magistrate Court must be located in Las Vegas, New Mexico.

**35-1-28. Magistrate court; San Miguel district.**

*There shall be two magistrates in San Miguel magistrate district, divisions 1 and 2 operating as a single court in Las Vegas.*

*History: 1953 Comp., § 36-1-28, enacted by Laws 1968, ch. 62, § 30; 1985, ch. 145, § 11.*

After a full review of the former lease period, maintenance and condition of the existing courthouse, and recognition that it was built specifically to requirements issued by AOC as set forth in the **"Specifications Section"** immediately following the **"Justification,"** it is reasonable to conclude that it is appropriate to proceed with a **"sole source procurement"** to negotiate a new fifteen (15) year lease with Don Elwell, Jr and the Barbara A. Elwell Revocable Trust.

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**II. STANDARD SPECIFICATIONS FOR A TWO COURTROOM**  
**MAGISTRATE COURT FACILITY**  
**LEASE SPACE REQUIREMENTS AND ARCHITECTURAL PROGRAM**  
**FOR LAS VEGAS MAGISTRATE COURT**

**A) BUILDING CODES**

Construction will comply with all applicable building codes, including the Uniform Building Code (UBC), New Mexico Building Code, Uniform Plumbing Code, Americans with Disabilities Act (ADA), and local and city ordinances.

**B) ARCHITECTURAL STANDARDS**

The building exterior and interior must be consistent with the dignity of a magistrate court, and include clear signage in full compliance with ADA regulations. The following minimum requirements are requested for the proposed court facility. Design and construction must conform with all applicable state and federal laws, codes, rules and regulations. Design requested is for a two court room facility. Preference will be given to building proposals that afford the option to add an additional courtroom for future needs

**1) Quality of Space: commercial grade professional office space including:**

**a. Finishes: minimum requirements**

- Flooring: commercial grade carpeting throughout the building with the following exceptions; commercial grade vinyl or ceramic tile in public waiting areas, staff break room, storage room, and communications room; ceramic tile in all restrooms. Tile should not require waxing.
- Walls: taped, textured, and painted sheet rock.
- Ceilings: suspended acoustical tile or drywall with access to open plenum.
- Counter tops: commercially reasonable counter tops

**b. Mechanical system: minimum requirements**

- Forced air heating and refrigerated cooling with economizer cycle.
- Zoned to allow for climate control in each courtroom, judicial chambers, public waiting area, and areas for clerks.

**c. Standard for building and campus wiring**

- Dedicated circuits (220V and/or 110V) to be provided as needed for the computer network file server, copiers, FAX, central printer areas, closed circuit TV system, integrated security system, and break room/kitchen area.
- Voice/data drops throughout as requested by AOC.
- Computer room must also serve as telephone termination point.
- Ability to support video-conferencing in each courtroom.

d. **Lighting minimum: requirements**

- **Artificial:** full spectrum fluorescent lamps, lay-in ceiling type.
- **Natural:** all office areas via exterior windows, skylights, interior windows as available in proposed building

e. **Acoustics: minimum requirements**

Walls to be insulated and sound proofed.

f. **Security systems minimum requirements**

- **External:** lighting on all sides of facility, parking areas, and all entries and exits to the building. Separate secured parking areas for court staff and transport vehicles at sally port.
- **Internal:** exit signs connected to emergency power supply at all ingress/egress doors; smoke detectors, fire alarm, motion and forced entry detection; carbon monoxide detectors in numbers and location to comply with State Fire Code; panic hardware on all emergency exits.
- After the building has been evacuated for any purpose (*fire alarm, bomb threat, etc.*), or when the facility reopens after being closed overnight, the Court must be able to assure itself that the facility is safe and ready for business.
- Ingress and egress for the public, except for emergency exits, shall be through the front door.
- Ingress and egress for court staff shall be through secure entry from parking area.

g. **Special requirements**

- Staff lounge to include a sink, counter/cupboard space, space and wiring for a refrigerator and microwave.
- File room designed to accommodate a high density, space saving system.

h. **Plumbing fixtures: minimum requirements**

- Public restrooms adjacent to public lobby to meet Code requirements, including water conservation devices
- Staff restrooms in secure area to meet Code requirements, including water conservation devices.
- Specially designed fixtures in holding cells.

i. **Landscaping: minimum requirements:**

- Water efficient, using xeriscape plantings where appropriate and automatic drip irrigation systems as needed.

**C) SPACE REQUESTED: 9,000 to 10,000 USF**

Listed below are individual spaces with USF and type of space required. USF totals cited are approximate.

- 1) **Public reception and waiting areas outside of courtrooms**  
with public drinking fountains. **1,500 USF**

- 2) **Clerical area(s)**, all adjacent with secure access to the judges' corridor:

- a. Minimum of two standard service windows
- b. One ADA compliant window.
- c. One large open area for filing documents.
- d. Large open area suitable for up to 10 computer/desk work stations.
- e. One supply storage cabinet with built-in shelving.
- f. Staff drinking fountain.

**Subtotal for a - f above: 1,500 USF**

- g. Additional office areas

- i. Chief clerk's office **168 USF**
- ii. Break room with sink, hot and cold running water,  
refrigerator, and space for microwave **200 USF**
- iii. File storage room to accommodate mobile  
SpaceSaver unit **300 USF**

**Total for clerical area(s) = 2,168 USF**

- 3) **Judicial chambers**

- a. Secure corridor with direct access to the clerical area.
- b. Two judicial chambers with immediate or close access to courtrooms.
- c.. Windows in each office if possible.
- d. Close access to copy/fax alcove .

**2 @ 260 USF = 520 USF**

- 4) **Courtrooms**

- a. Built-in judges' benches with computer counter, voice,  
data. and digital recording connections.
- b. Computer counter and desk for clerk.
- c. Railing for witness stand.
- d. Railing for jury box in courtrooms.
- e. Railing defining public seating area.
- f. Wiring for video conferencing technology.
- g. Supply storage areas

**2 @ 1,400 USF = 2,800 USF**

- 5) **Two jury deliberation rooms**, each with direct access to adjacent courtroom  
(One deliberation room is acceptable if it has direct access to both courtrooms.)
  - a. Kitchenette area w/counter and small sink
  - b. Immediate access to restrooms in secure area

2 @ 350 USF = 700 USF
  
- 6) **Security areas**
  - a. Minimum of two secure holding cells with fixed bench seat with restraint devices for ankles and hand cuffs.
  - b. One stainless steel toilet/sink combination with privacy wall in each cell.
  - c. Holding cells must have secure access to sally port entrance.

2 @ 100 USF = 200 USF
  
- 7) **Ancillary office/work areas**
  - a. Three attorney/witness/conference/victim waiting rooms opening off of the public waiting area 3 @ 100USF = 300 USF
  - b. One program office with entrance from the public waiting area 150 USF
  - c. Janitor's closet with sink and shelving 100 USF
  - d. Telecom/server room 120 USF
  - e. Mechanical room 100 USF
  
- 8) **Restrooms (one equals men's and women's facility; all ADA compliant)**
  - a. One public restroom in lobby area 400 USF
  - b. One staff restroom with cabinetry 350 USF
  
- 9) **Parking lot/exterior of building**
  - a. 75+ parking spaces
  - b. Parking for court staff separate from public
  - c. Secure access at sally port for prisoner transports
  - d. Flag pole and exterior trash can/ashtrays

#### **D. ACCESSIBILITY FOR THE DISABLED**

The court facility must comply with ADA and implementing regulations. A proposal that fails to comply will be deemed non-responsive.

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### **III. SUMMARY OF EVENTS CULMINATING IN TERMINATION OF PRIOR LEASE AGREEMENT**

**October 2014:** AOC first received complaints from court staff of physical symptoms allegedly caused by environmental contamination of the courthouse. Complaints grew in number, frequency, and alleged severity of symptoms. Our landlord was involved and extensive interior cleaning work was performed, the roof and walls were inspected for leaks, additional duct work was installed to improve air circulation, walls were scrubbed, carpets were shampooed ... and complaints continued.

**November 2014-January 2015:** Don Elwell (*landlord*) scheduled environmental testing listed below. Full documentation of testing, procedures followed, and formal lab results confirmed there was no indication of environmental contamination.

- Brad Turk, Environmental Building Sciences (November 2014)
- DC Environmental (December 2014)
- Precision Air (January 2015/CO testing)

**January 2015-February 2015:** Landlord implemented all cleaning and remediation work recommended by the environmental specialists. Additional duct work was installed to expand the air circulation system; all ducts and air-handling units were cleaned; interior cleaning included shampooing of carpets, sanitizing walls and all flat surfaces; inspection of the entire building (*including the plenum, space between walls, and under carpets*) was performed to identify any possible locations evidencing prior water damage. Complaints from the court staff continued. During this period court operations were temporarily located to District Court and later to space made available at the Detention Center. Complaints from staff of physical symptoms "*related to the courthouse*" continued when working at both temporary locations, alleging that the case files, supplies, and equipment that had been removed from the courthouse were contaminated.

**February 2015:** In late February AOC notified Mr. Elwell that the lease was being "*terminated for cause.*" Mr. Elwell promptly replied by letter dated March 2, 2015, expressing deep concern and a commitment to resolve the problem ... *if and when any problem could be identified.*

At the direction of the Director of AOC, an exhaustive search for a temporary location was conducted. This search involved direct contact with the following local realtors (*Rocky Mountain Agency, Home & Land Professionals, Michael Gregory, Melton Real Estate, NM360 Real Estate, La Luz Properties, and Northern New Mexico Real Estate*). Most of the realtors indicated they do not manage properties for lease, and no properties that met minimum requirements were identified. Inquiries were directed to judges (*and former judges*) from both District and Magistrate Courts, and they were unaware of any buildings that would meet minimum court requirements. Extensive interaction occurred with Jim Bordegaray (*Leasing Bureau Manager of GSD*) to ascertain if any state-owned buildings were available ... none were. The City of Las Vegas was contacted and no city owned buildings meeting requirements were identified. The "Las Vegas Optic" had no listings for acceptable commercial properties.

It became apparent that a building suitable for a magistrate court simply was not available, and court operations were ultimately relocated to a "*warehouse building*" in the industrial complex on the south end of Las Vegas. At significant expense, major interior modifications were completed to



create an environment that met the most basic needs for court operations. Magistrate Court was moved into that “modified warehouse” in early March, 2015 and has since conducted operations at that location.

**February-October 2015:** Mr. Elwell continued assessment of the courthouse. During this period he took advantage of the fact that the building was vacant and replaced the entire roof, upgraded interior lighting to LED, replaced all roof drains and down spouts, completed exterior stucco repairs, and repaired and striped the entire parking lot. An independent third-party consultant conducted a full assessment of the HVAC system. The following environmental testing was also performed:

- DC Environmental (February 2015/extensive retesting of the building for mold, allergens, and chemicals)
- DC Environmental (September 2015/retesting of the building for mold, allergens, and chemicals)

In October AOC independently contracted with DC Environmental to test files and supplies that had been in storage since removal from the courthouse.

#### **BRIEF EXPLANATION OF RESULTS FROM ALL FIVE SESSIONS OF ENVIRONMENTAL TESTING:**

Although mold spores and allergens were reported in the test results, it should be noted that spore counts in most instances were higher outside of the building than inside, and in no instance did the measured elevation of contaminants fall within the range where they would be considered problematic. No chemical contamination was detected.

Precision Air reported no measurable CO in testing conducted in January, 2015.

**Since late September 2015** the judges and staff have been increasingly interested in moving back into the courthouse. AOC has received notification from Don Elwell that all possible investigation and remediation work is finished and the building is ready for occupancy if the Magistrate Court wants to move back in. On November 10th a full written report, along with copies of all related documentation, was transmitted to Artie Pepin (AOC Director), Rosemary McCourt (Director, Magistrate Court Division), and Lynette Paulman-Rodriguez (AOC HR Director).

**7) November 19, 2015:** After a thorough review of scientific evidence gathered and tested in controlled circumstances, completion of work summarized above, and repeated on-site inspections conducted by AOC, third-party contractors, and the landlord, the Director of the Administrative Office of the Courts notified Facilities Management on Thursday, November 19th, to proceed as expeditiously as possible with negotiations for a fifteen (15) year lease with options to renew with Mr. Elwell.

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**FINDINGS IN SUPPORT OF SOLE SOURCE PROCUREMENT REQUEST**  
**FOR LEASED SPACE FOR**  
**SAN MIGUEL COUNTY MAGISTRATE COURT IN**  
**LAS VEGAS, NEW MEXICO**

After a thorough review of this request, and all supporting documentation, as Chief Financial Officer and Chief Procurement Officer for the Administrative Office of the Courts, I hereby approve this request. My decision is based on the fact that this request is in full compliance with §13-1-126 NMSA as set forth below.

**§13-1-126.A(1) There is only one source for the required service, construction, or item of tangible personal property;**

The building located at 1927 7<sup>th</sup> Street, Las Vegas, New Mexico was designed and built in 1998 by Don Elwell, adhering to specifications provided by AOC in response to the RFP issued for *"Design/Build Lease Space for a Magistrate Court in Las Vegas, New Mexico."* The construction project was fully approved by AOC and occupied by Magistrate Court in December, 1998. Subsequent to occupancy, the landlord maintained and upgraded the building, always adhering to the highest standards of property management. Responding to continual complaints from court staff, between January 1, 2015 and February 28, 2015, AOC conducted an exhaustive search in Las Vegas to identify an existing building that could be suitable as a temporary location for court operations pending ongoing environmental investigation and remediation work in the courthouse. No buildings meeting court requirements were available, and the only available option was to move operations into a warehouse facility in the Bibb Industrial Park adjacent to I-25 on the south edge of Las Vegas.


**§13-1-126.A(2) The service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract;**

The proposed building located at 1927 7<sup>th</sup> Street, Las Vegas, New Mexico is, indeed, unique for this purpose. It was designed and built to meet the specific needs of Magistrate Court operations which, as required by NMSA 35-1-28, must be located in Las Vegas, New Mexico.

**§13-1-126.A(3) Other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.**

In compliance with NMSA 35-1-28, the San Miguel County Magistrate Court must be located in Las Vegas, New Mexico and, based on the earlier search for a temporary location, it is clear that other buildings meeting the specific needs of Magistrate Court are not available in Las Vegas.

**ADMINISTRATIVE OFFICE OF THE COURTS**



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Oscar J. Arevalo, Chief Financial Officer and  
Chief Procurement Officer